

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

FIRST APPEAL NO.1893 OF 2005
WITH
CIVIL APPLICATION NO.4507 OF 2005

M/s. Swati Publishers & Ors. ..Appellants.
Vs.
Saraswati Publishing Co. Pvt. Ltd. & Ors. ..
Respondents.

...
Mr. S.D. Patil for the Appellants.
Mr. Amit Borkar for the Respondents.

....

CORAM : DR.D.Y.CHANDRACHUD, J.

17th November, 2005.

P.C. :

1. At the hearing of the First Appeal, counsel appearing for the Appellants has placed on the record a purshis clarifying that the Appellants have no concern with the calender Saubhagyalaxmi, and that the Appellants shall not publish any calender under the name and style of Saubhagyalaxmi or any other similar name. This is in fact the operative direction issued by the Learned Additional District Judge, Kolhapur in the impugned judgment and order dated 22nd August, 2005. In these circumstances, the Appellants have prayed that the Appeal may be disposed of in the light of the aforesaid purshis.

2. The purshis which has been filed before the Court also contains a statement that the Appellants have published a calender in the name and style of Dhanlaxmi. A statement to this effect, it is common ground, appeared for the first time in the Civil Application which has been filed by the Appellants before this Court. By consent of the parties, it is clarified that the disposal of this Appeal in terms of the Purshis shall not amount to the expression of any view by this Court to the effect that the publication of the calender Dhanlaxmi is lawful or not inconsistent with the order of injunction by the Court below. Learned counsel are agreed in stating before the Court that the aforesaid consensual order shall not come in the way of the disposal of R.C. Suit No.2 of 2003 which is pending between the parties in respect of another trade mark. Since no other point has been raised, the Appeal stands disposed of.

In view of the disposal of the First Appeal, the Civil Application is rendered infructuous and is accordingly disposed of.